Remarks

Amendments to the Claims

There are currently 15 claims pending. Claims 1,10, 11 and 12 have been amended. Claims 6, 13 and 14 have been deleted.

Rejection of Claims Under 35 U.S.C.§112

The Examiner rejected claims 10-14, under 35 U.S.C.§112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner specifically states that Claim 10 is indefinite for reciting "contains a drug" at the end of the claim. The language is vague because it is unclear from the claim itself what is meant by the term "drug." Applicants respectfully submit that Claim 10, as amended, is specific to atorvastatin as the active ingredient and, therefore, respectfully request that the rejection be withdrawn. Support for the amendment in Claim 10 can be found in Claim 1.

The Examiner states that Claim 11 is indefinite for reciting "...a mean average diamer of less than 500 µm." The scope of the claim is confusing since the range encompassed by "less than 500" includes any diamer from 0-499 um. Applicants respectfully submit that Claim 11, as amended, defines the lower limit of the mean average diamer as 1 µm. Support for the amendment can be found on page 3, line 30, of the specification. Applicants, therefore, respectfully request that the rejection be withdrawn.

The Examiner states that Claim 12 is indefinite for reciting "...a mean average diamer of less than 100 µm." The scope of the claim is confusing since the range encompassed by "less than 100" includes any diamer from 0-99 um. Applicants respectfully submit that Claim 12, as amended, defines the lower limit of the mean average diamer as 1 µm. Support for the amendment can be found on page 3, line 30, of the specification. Applicants, therefore, respectfully request that the rejection be withdrawn.

Rejection of Claims Under 35 U.S.C.§112

The Examiner rejected claims 1-3, under 35 U.S.C.§102(b), as being anticipated by WO 01/42209 A1. The Examiner states that the WO document teaches a process of producing amorphous atorvastatin, wherein a crystalline form of atorvastatin is dissolved in a low molecular alcohol (i.e., a hydroxlic solvent) and then the solution is dried by evaporation.

Applicants respectfully submit that Claim 1, as amended, refers specifically to removing the solvent by spray drying. The WO 01/42209 document does not teach removing the solvent by spray drying, therefore, Applicants respectfully submit that claim 1, as amended, is novel over the cited reference.

Favorable consideration of the presently pending claims are respectfully requested.

Respectfully submitted,

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